IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Civil Revision No. 137 of 2001

Decided on: 25th May,2007

Mohinder Singh		Petitioner
	Versus	
State of H P & others		Respondents

Coram:

The Hon'ble Mr.Justice Surinder Singh.J.

Whether approved for reporting ?[1]

For the Petitioner : None

For respondents 1 and 2 : Mr J S Guleria, Law Officer.

For respondent No.3 : None.

Surinder Singh,J)Oral)

Heard. The instant revision petition has been preferred against the order dated 30th December, 2000 passed by the District Judge, Shimla in Civil Suit No.4-S/16 of 2000 titled as *Mohidner Singh versus State of H P.*

The facts relevant to decide this revision are that the petitioner had moved an application under Order 11 Rule 12 CPC seeking the direction to produce certain bills against which the goods were arranged to have been supplied to the defendant-

[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

respondents. The defendants had denied the supply of goods. The trial court without hearing the petitioner and calling for the reply is alleged to have dismissed the application vide order dated 30.12.2000, which has been assailed in the present petition. The petition was admitted for hearing on 29.6.2001 and further proceedings in the suit were stayed till its final disposal, thereafter it has now been listed for hearing.

The learned counsel for the petitioner has not put in appearance. I have perused the record and heard the learned Law Officer. On perusing the impugned order, it is noticed that the matter is hanging fire since long on a very short point and further proceedings in the suit are stayed. I have found that the impugned order rejecting the application, without hearing the party, is unsustainable. In fact order 11 Rule 12 CPC deals with the discovery of documents. The said rule reads as under:

> ***"If any party apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. <u>On the hearing of such application</u> the Court***

may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that state of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion, be though fit."

(emphasis supplied)

On a plain reading of the above provision, it makes manifestly clear that rule 12 of the C.P.C. confers very wide powers on the court to grant or refuse discovery of documents. In exercising the discretion, the Court will consider the pleadings of the parties, the nature of the suit, relief claimed, relevancy of documents, discovery of which is prayed, the stage at which the application is made and other relevant circumstances.

On hearing of such application the court may pass any order which is deemed fit within the ambit and scope of the rule aforesaid. In the instant case, the trial court seems to have passed the impugned order without calling for the reply or affidavit of the defendant-respondents and affording any opportunity of hearing to the petitioner on the said application. At least the

order challenged is silent on this point. So in my opinion the impugned order suffers from material irregularity. Accordingly, the order dated 30th December, 2000 deserves to be set aside only to the extent of dismissal of the application under Order 11 Rule 12 CPC. Thus ordered accordingly.

The revision stands allowed and it is directed that the respondents (defendants) may file reply on 29th June,2007 to the application, under Order 11 Rule 12 read with Section 151 CPC, if they so desire, before the trial court and thereafter the trial court shall dispose of the application, after hearing the parties or their counsel after due notice as observed above. Interim order dated 29th June, 2001 is hereby vacated.

Keeping in view the long pendency of this case before the trial court, every Endeavour must be made to finally decide the suit on or before 31st December,2007. The revision petition is accordingly disposed of.

May 25, 2007 (Surinder Singh),J.
(D)